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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,131	02/06/2007	Alexander Schmidt-Forst	18227 (27839-1549)	9398
45736 7590 09/14/2010 Christopher M. Goff (27839) ARMSTRONG TEASDALE LLP 7700 Forsyth Boulevard Suite 1800 St. Louis, MO 63105				
EXAMINER				
COLE, ELIZABETH M				
ART UNIT		PAPER NUMBER		
1782				
NOTIFICATION DATE		DELIVERY MODE		
09/14/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

Office Action Summary

Application No.

10/561,131

Applicant(s)

SCHMIDT-FORST ET AL.

Examiner

Elizabeth M. Cole

Art Unit

1782

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/6/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33, 35-39 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-33, 35-39, 41-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 7/6/10; 4/29/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Whitfield et al, U.S. Patent No. 4,432,834. Whitfield discloses applying an imidazolium methosulfate in amounts of greater than 0.035 percent by weight based on the fiber weight to cellulosic pulp fibers, (which correspond to the claimed short fibers). The fibers can be formed into tissue products and toweling which corresponds to the claimed fibrous nonwoven. See col. 1, lines 7-13; col. 2, lines 9-17; col. 2, lines 44 - col. 3, line 7; and examples. Therefore, claims 20 and 36 are anticipated.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott, Jr. et al, U.S. Patent Application publication 2002/0032421 in view of Whitfield et al, U.S. Patent NO. 4,432,834 and Shah, U.S. Patent No. 4,573,376. Scott, Jr. discloses an absorbent airlaid nonwoven fabric comprising short cellulosic fibers such as cotton linters. See paragraphs 0014 and 0021, and examples. The airlaid fabric further comprises binder fibers, which are preferably bicomponent binder fibers having a polyester core and a polyolefin sheath. See paragraph 0025. The short fibers are

present in an amount of over 70% and preferably in ratios of 80/20 to 99/1 cotton to thermoplastic fibers. See paragraph 0033. The airlaid may further comprise additional components such as superabsorbent materials. See paragraph 0029. Scott defines short fibers as having a length of 0.5-12 mm, which encompasses the claimed short fiber lengths. See paragraph 0014. Scott, Jr. et al differs from the claimed invention because it does not disclose employing short rayon, (viscose), fibers and does not teach applying a finish to the short fibers. With regard to the finish, Whitfield teaches applying a imidazolinium methosulfate to pulp fibers in order to improve the absorbency of the fibers as set forth above. Therefore, it would have been obvious to have applied the finish of Whitfield to the fibers of Scott, Jr, in order to further enhance their absorbency. With regard to the use of rayon fibers, Shah teaches that both cotton and rayon fibers can be used for forming absorbent materials which can also be treated with a finish to improve absorbency. See col. 3, lines 35-55. Therefore, it would have been obvious to have employed both rayon and cotton as taught by Shah as the fibers of Scott, in view of their art recognized suitability for this intended purpose.

5. Claims 27-33, 35-39, 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott, Jr. et al, in view of Whitefield and Shah as applied to claims above, and further in view of Agyapong et al, U.S. Patent No. 6,554,814. Scott discloses an airlaid nonwoven as set forth above. Scott differs from the claimed invention because it does not specifically disclose employing rayon fibers or multi-limbed rayon fibers to form the airlaid fabric. However, Agyapong teaches at col. 7, lines 15-40, that rayon fibers and trilobal rayon fibers can be used instead of or in

mixture with short cotton fibers to form absorbent articles. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed rayon and/or trilobal rayon fibers in the invention of Scott in addition to or instead of the short cotton fibers, in view of their art recognized suitability for this purpose. With regard to the particularly claimed fiber dtex for the binder fibers and cellulosic fibers, it would have been obvious to have selected fiber dtex in order to form a fabric having the desired absorbency and strength, (see paragraph 0024 of Scott which relates fiber length to tenacity of the nonwoven). Further, since Scott teaches that short fibers may be used without excessive dust off problems due to the use of the binder fibers, the person of ordinary skill in the art would have been able to employ the less expensive shorter rayon fibers in the invention of Scott, (see paragraph 0015 of Scott). With regard to the claimed absorbency, Agyapong teaches that absorbencies of from less than 6g/g to up to about 15 g/g are known to be useful in the art of absorbency catamenial devices. See paragraph 8, line 58 – col. 9, line 8. Therefore, it would have been obvious to have controlled the absorbency of the product of Scott through the selection of the various components, finishes and additives, which produced an absorbent product having the desired absorbencies.

6. Applicant's arguments with respect to claims 20-33, 35-39, 41-45 have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1782

Application/Control Number: 10/561,131

Page 6

Art Unit: 1782

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